

# EXHIBIT E

1  
2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 THE PHILLIES, a Pennsylvania )  
5 limited partnership, )  
6 Plaintiff, )  
7 vs. ) Civil Action No.  
8 HARRISON/ERICKSON, ) 19-7239  
9 INCORPORATED, a New York )  
10 corporation, HARRISON ERICKSON, )  
11 a partnership, and WAYDE )  
12 HARRISON and BONNIE ERICKSON, )  
13 Defendants. )  
14 -----)

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15 \*\*\*\*\*CONFIDENTIAL\*\*\*\*\*

16 VIDEOTAPED-TELEPHONIC 30(b)(6) DEPOSITION

17 TAKEN REMOTELY VIA

18 VIDEOCONFERENCE AND TELECONFERENCE

19 OF

20 SCOTT BRANDRETH

21 Thursday, May 7, 2020

22  
23  
24 Reported by:  
25 FRANCIS X. FREDERICK, CSR, RPR, RMR  
JOB NO. 179894

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<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 May 7, 2020</p> <p>6 10:53 a.m.</p> <p>7</p> <p>8 CONFIDENTIAL videotaped deposition</p> <p>9 of SCOTT BRANDRETH, pursuant to Notice,</p> <p>10 before Francis X. Frederick, a Certified</p> <p>11 Shorthand Reporter, Registered Merit</p> <p>12 Reporter and Notary Public of the States</p> <p>13 of New York and New Jersey.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 (All Counsel and Participants</p> <p>5 present via videoconference and</p> <p>6 teleconference due to COVID-1</p> <p>7 restrictions.)</p> <p>8</p> <p>9 DUANE MORRIS</p> <p>10 Attorneys for Plaintiff</p> <p>11 30 South 17th Street</p> <p>12 Philadelphia, Pennsylvania 19103</p> <p>13 BY: TYLER MARANDOLA, ESQ.</p> <p>14 DAVID WOLFSON, ESQ.</p> <p>15</p> <p>16 MITCHELL SILBERBERG &amp; KNUPP</p> <p>17 437 Madison Avenue</p> <p>18 New York, New York 10022</p> <p>19 BY: PAUL MONTCLARE, ESQ.</p> <p>20 LEO LICHTMAN, ESQ.</p> <p>21 - and -</p> <p>22 MITCHELL SILBERBERG &amp; KNUPP</p> <p>23 1818 N Street NW</p> <p>24 Washington, DC 20036</p> <p>25 BY: MATTHEW WILLIAMS, ESQ.</p>
<p>Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S: (Cont'd.)</p> <p>3</p> <p>4 ALSO PRESENT:</p> <p>5 PHIL RIZZUTI, Videographer</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1</p> <p>2 THE VIDEOGRAPHER: My name is Phil</p> <p>3 Rizzuti. I am on a legal videographer</p> <p>4 in association with TSG Reporting, I</p> <p>5 know. Due to the severity of the</p> <p>6 COVID-19 I am following the practice of</p> <p>7 social distancing. I will not be in the</p> <p>8 same room with the witness. Instead, I</p> <p>9 will record this videotaped deposition</p> <p>10 remotely. The court reporter, Francis</p> <p>11 Frederick, also will not be in the same</p> <p>12 room and will swear the witness</p> <p>13 remotely. Do all parties stipulate to</p> <p>14 the validity of this video recording and</p> <p>15 remote swearing and that it will be</p> <p>16 admissible in the courtroom as if it had</p> <p>17 been taken following Rule 30 of the</p> <p>18 Federal Rules of Civil Procedure and the</p> <p>19 state rules where this case is pending?</p> <p>20 MR. MONTCLARE: So stipulated by</p> <p>21 the Defendants.</p> <p>22 MR. MARANDOLA: This is Tyler</p> <p>23 Marandola for the Plaintiffs. We agree.</p> <p>24 THE VIDEOGRAPHER: Okay. Now I'm</p> <p>25 going to have the read-on.</p>

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<p>1</p> <p>2 So the eyelashes are one piece</p> <p>3 instead of two and the oval eyes are oval here</p> <p>4 but their egg shaped, literally egg shaped on</p> <p>5 the costume itself.</p> <p>6 Q. Aside from what's -- a compare to</p> <p>7 the costume, were The Phillies aware that --</p> <p>8 that Bonnie had created designs other than</p> <p>9 creating the costume prior to 1984?</p> <p>10 MR. MARANDOLA: Objection.</p> <p>11 Outside the scope of the 30(b)(6)</p> <p>12 topics. You can answer in your personal</p> <p>13 capacity.</p> <p>14 BY MR. MONTCLARE:</p> <p>15 Q. You can answer it. Just compare</p> <p>16 whatever capacity you can answer it.</p> <p>17 MR. MARANDOLA: Objection. Paul,</p> <p>18 are -- Scott you can answer in your</p> <p>19 personal capacity.</p> <p>20 MR. MONTCLARE: No, you can't</p> <p>21 direct the witness how to answer.</p> <p>22 Either you object and instruct him not</p> <p>23 to answer or you let him answer. You</p> <p>24 made your objection. Answer my</p> <p>25 question --</p>	<p>1</p> <p>2 THE WITNESS: Can you read back</p> <p>3 the question.</p> <p>4 MR. MONTCLARE: Yeah. Not his</p> <p>5 question. My question.</p> <p>6 (Record read.)</p> <p>7 MR. MARANDOLA: Objection.</p> <p>8 Outside the scope of the 30(b)(6)</p> <p>9 categories. Can you answer based on</p> <p>10 your personal knowledge.</p> <p>11 BY MR. MONTCLARE:</p> <p>12 Q. Answer the question, please.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. We'll come back to that in</p> <p>15 a little bit.</p> <p>16 You mentioned now a couple of</p> <p>17 times that about it being fatter was something</p> <p>18 that you guys had created or had something to</p> <p>19 do with.</p> <p>20 What are you exactly referring to?</p> <p>21 Could you explain that to me? How did The</p> <p>22 Phillies make the Phanatic fatter and when?</p> <p>23 MR. MARANDOLA: Objection.</p> <p>24 Mischaracterizes the testimony. You can</p> <p>25 answer.</p>
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<p>1</p> <p>2 A. I don't believe I mentioned making</p> <p>3 the mounting fatter. I just mentioned the</p> <p>4 original direction of the Phillies was to make</p> <p>5 the character big and fat, furry green with</p> <p>6 the long neck.</p> <p>7 Q. And who at the Phillies did that?</p> <p>8 A. Bill Giles.</p> <p>9 Q. And what do you think --</p> <p>10 A. Said it in his testimony and I was</p> <p>11 at the deposition.</p> <p>12 Q. So it's based on what Mr. --</p> <p>13 A. It's what I know.</p> <p>14 Q. Yeah, excuse me. Is that what Mr.</p> <p>15 Giles -- you're basing this answer on what Mr.</p> <p>16 Giles had said -- had they had prior to?</p> <p>17 A. No. Not solely on his testimony.</p> <p>18 That's been the word for years. That's what</p> <p>19 I've always read, what I've always seen.</p> <p>20 Q. What have you read and what have</p> <p>21 you seen that said that?</p> <p>22 A. I mean, I've read in books. I've</p> <p>23 read in biographer of the Phanatic that we</p> <p>24 have -- you know, that we used for ore media</p> <p>25 guys. There's been stereotypes written over the</p>	<p>1</p> <p>2 years about the creation of the Phanatic and,</p> <p>3 you know, in newspapers and magazines and that</p> <p>4 was always the story.</p> <p>5 Q. Do you -- so your basing this then</p> <p>6 on it's just a story that you've come to know?</p> <p>7 MR. MARANDOLA: Objection, vague.</p> <p>8 A. Just how it was. I've been there</p> <p>9 for a long time and that's what -- that's the</p> <p>10 history of the Phanatic.</p> <p>11 Q. Right. And is there any -- do you</p> <p>12 ever look at any first-hand documents that</p> <p>13 would indicate to you that Mr. Giles had</p> <p>14 anything to do with those aspects of the</p> <p>15 creation of the Phanatic?</p> <p>16 MR. MARANDOLA: Objection, vague.</p> <p>17 You can answer if you understand it.</p> <p>18 A. Yeah, I don't know if there's any</p> <p>19 documents. That was in the 1970s. And I was</p> <p>20 obviously with The Phillies at that point.</p> <p>21 So, no.</p> <p>22 Q. Right. Did you ever see</p> <p>23 communication from Mr. Giles to</p> <p>24 Harrison/Erickson relating to any topic</p> <p>25 whatsoever relating to the design of the</p>

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<p>1 2 initial Phanatic?</p> <p>3 MR. MARANDOLA: Objection.</p> <p>4 Outside the scope of the 30(b)(6)</p> <p>5 topics. You can answer based on your</p> <p>6 personal knowledge.</p> <p>7 BY MR. MONTCLARE:</p> <p>8 Q. Just answer my question.</p> <p>9 A. No.</p> <p>10 Q. If you go to the bottom one on the</p> <p>11 left-hand column, it's the one where he's</p> <p>12 holding a pennant, what creative contributions</p> <p>13 were made abortive The Phillies with respect</p> <p>14 to that image?</p> <p>15 A. The colors. The green. The big</p> <p>16 nose. The Phillies on the hat. The Phillie</p> <p>17 Phanatic script. The accented line there make</p> <p>18 the little dig I like to call it on the neck</p> <p>19 there to give it a little depth?</p> <p>20 Q. Was that created by anyone at the</p> <p>21 Phillies, those differences?</p> <p>22 A. They were created by -- they were</p> <p>23 done by Bonnie on the direction of The</p> <p>24 Phillies.</p> <p>25 Q. And is that direction in writing</p>	<p>1 2 someplace?</p> <p>3 A. No. He was working for us at the</p> <p>4 time when she did this particular design.</p> <p>5 Q. With respect to the one you were</p> <p>6 just talking about, do you know whether Bonnie</p> <p>7 had ever made a similar type design prior to</p> <p>8 October 31st, 1994?</p> <p>9 MR. MARANDOLA: Objection.</p> <p>10 Outside the scope of the 30(b)(6)</p> <p>11 topics. You can answer to your personal</p> <p>12 knowledge.</p> <p>13 Q. Just answer, please.</p> <p>14 A. Yes. I believe I've seen it -- at</p> <p>15 least a sketch of that.</p> <p>16 Q. And again, you had mentioned a big</p> <p>17 nose. That's the big nose you say that Bill</p> <p>18 Giles directed her to make; is that what</p> <p>19 you're saying?</p> <p>20 A. Yes.</p> <p>21 Q. And in the one on the right you</p> <p>22 talked about already, again, do you know</p> <p>23 whether -- withdrawn.</p> <p>24 Do you know if Harrison/Erickson</p> <p>25 had made a similar drawing prior to October</p>
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<p>1 2 31st, 1984?</p> <p>3 MR. MARANDOLA: Objection, outside</p> <p>4 the scope of the 30(b)(6) topics. If</p> <p>5 you know in your personal capacity you</p> <p>6 can answer.</p> <p>7 Q. No, just answer my question,</p> <p>8 please.</p> <p>9 MR. MARANDOLA: In your personal</p> <p>10 capacity.</p> <p>11 A. I don't -- I don't know if I've</p> <p>12 seen that one. That one was developed, like I</p> <p>13 said, about four years earlier than the other</p> <p>14 ones. And it's actually -- it's actually a</p> <p>15 little different in design than the other</p> <p>16 ones. There's no -- there's no -- as I zoom</p> <p>17 in, there's no outline between the eyes and</p> <p>18 the eyelashes and the tip and base of the</p> <p>19 snout are a little bit different as far as</p> <p>20 outline. So there's been some creative</p> <p>21 differences between that and the other -- and</p> <p>22 the ones -- that other ones that are in that</p> <p>23 style guide so it is a little bit different.</p> <p>24 And that was originally developed not for that</p> <p>25 Citizens Bank Park logos but it was developed</p>	<p>1 2 for the Phanatic to hold the Citizens Bank</p> <p>3 Park inaugural season logo. That's why we</p> <p>4 developed it.</p> <p>5 And then after the inaugural</p> <p>6 season, we -- it's developed in way that you</p> <p>7 can stick different things in his hand. So</p> <p>8 after we won the 2008 World Series we used</p> <p>9 this design for the Phanatic to hold The</p> <p>10 Phillies 2008 World Series logos. So --</p> <p>11 Q. And when was the Citizens Bank</p> <p>12 inaugural?</p> <p>13 A. 2004.</p> <p>14 Q. Okay. Now, with respect to these</p> <p>15 particular designs you would agree that they</p> <p>16 were actually made, the designs themselves,</p> <p>17 were made by Harrison/Erickson, correct?</p> <p>18 MR. MARANDOLA: Objection, vague.</p> <p>19 A. Could you repeat that?</p> <p>20 Q. I'll withdraw it.</p> <p>21 What were the creative</p> <p>22 contributions made to each of these by Bonnie</p> <p>23 -- I'll withdraw that.</p> <p>24 What were the creative</p> <p>25 contributions made by Harrison/Erickson with</p>

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<p>1</p> <p>2 Q. Okay. And who does designer mean?</p> <p>3 MR. MARANDOLA: Objection.</p> <p>4 Occupies the scope of the 30(b)(6)</p> <p>5 topics. If you have some personal</p> <p>6 understanding you can answer.</p> <p>7 A. It means who The Phillies can ask</p> <p>8 to create the artwork.</p> <p>9 Q. How is that different from the</p> <p>10 annular?</p> <p>11 MR. MARANDOLA: Objection. To us</p> <p>12 scope of the 30(b)(6) testimony.</p> <p>13 Q. You can answer.</p> <p>14 A. I don't know.</p> <p>15 Q. And what about licensee; what is</p> <p>16 understanding of what licensee is?</p> <p>17 MR. MARANDOLA: Objection.</p> <p>18 Outside the scope of the 30(b)(6) topic.</p> <p>19 You can answer if you have a personal</p> <p>20 understanding of what that means.</p> <p>21 A. Licensee would be the Major League</p> <p>22 Baseball's vendor that designed and produced</p> <p>23 the item.</p> <p>24 Q. Okay. Well, let's start with item</p> <p>25 number 1. Is it The Phillies position that</p>	<p>1 item number 1 is a derivative work or a</p> <p>2 non-infringing work?</p> <p>3</p> <p>4 MR. MARANDOLA: Objection, calls</p> <p>5 for a legal conclusion. Objection,</p> <p>6 outside the scope of the 30(b)(6) topics</p> <p>7 and I instruct you not the answer on the</p> <p>8 ground of attorney-client privilege and</p> <p>9 work product.</p> <p>10 MR. MONTCLARE: Oh, goodness.</p> <p>11 BY MR. MONTCLARE:</p> <p>12 Q. Do you know who created item</p> <p>13 number one?</p> <p>14 MR. MARANDOLA: Objection, vague.</p> <p>15 Q. Do you know who created item</p> <p>16 number 1.</p> <p>17 A. Item number 1, it looks like it</p> <p>18 was out of Major League Baseball Design</p> <p>19 Services creation to commemorate the 1980</p> <p>20 world champs. And it takes -- it looks like</p> <p>21 that it takes an existing logo that we had</p> <p>22 Bonnie create for us in 2007/2008.</p> <p>23 Bonnie's creation was an</p> <p>24 interpretation of the costume with noticeable</p> <p>25 creative differences between the costume, the</p>
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<p>1 cartoon hat, the different eyes. And the</p> <p>2 green and the big nose were directions</p> <p>3 initially by The Phillies and Major League</p> <p>4 Baseball took these -- took that logo, the hat</p> <p>5 -- I'm sorry -- the head and the pennant and</p> <p>6 they changed it and they changed the color of</p> <p>7 the hat to make it burgundy things like 1980</p> <p>8 team and they changed the P to make it look</p> <p>9 Tyco the P in the 1980 team and they changed</p> <p>10 the pennant from red to White and they got rid</p> <p>11 of Phillie Phanatic and they put the 1980s</p> <p>12 Phillies script on the pennant. And then they</p> <p>13 added a circular with 1980 world champions</p> <p>14 text.</p> <p>15</p> <p>16 Q. Okay. So you're saying that The</p> <p>17 Phillies created that was based on what Bill</p> <p>18 Giles' testimony is?</p> <p>19 A. That was one of Bill Giles's</p> <p>20 earliest directions to Harrison/Erickson.</p> <p>21 Q. And that's what -- The Phillies</p> <p>22 understand that based on what guys has told</p> <p>23 them?</p> <p>24 A. Among other things, yes.</p> <p>25 Q. What other things?</p>	<p>1</p> <p>2 A. That's the -- that's been written,</p> <p>3 that's been in articles, that's been in</p> <p>4 videos. It's been, you know, part of the</p> <p>5 story -- it's part of the story of Phillies</p> <p>6 baseball and part of the story of the</p> <p>7 Phanatic.</p> <p>8 Q. And do you know if any of those</p> <p>9 people have any first-hand knowledge about</p> <p>10 what Bill Giles did who wrote those articles,</p> <p>11 told those stories?</p> <p>12 A. I don't know that.</p> <p>13 Q. Okay. So if you move over to the</p> <p>14 fourth column under approximate date of</p> <p>15 creation it says 2007. Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Are you saying that item 1 was</p> <p>18 created in 2007 screenings, outside the scope</p> <p>19 of the 30(b)(6) topics. You can answer if you</p> <p>20 know personally.</p> <p>21 A. I don't know when it was created.</p> <p>22 Around there -- around that date is likely.</p> <p>23 Q. Well, if you take a look at item 1</p> <p>24 it says 1980 world champions. Is it your</p> <p>25 testimony on behalf of The Phillies that that</p>

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<p style="text-align: right;">Page 98</p> <p>1 image was created in 2007?</p> <p>2 MR. MARANDOLA: Objection.</p> <p>3 Outside the scope of the 30(b)(6) topic.</p> <p>4 Sorry, Paul. Objection, outside the</p> <p>5 scope of the 30(b)(6) topics.</p> <p>6 Q. You can answer.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So is it your testimony the</p> <p>9 logo -- withdrawn -- that the image in item 1</p> <p>10 was first created in 2007 just the way it</p> <p>11 appears in this document?</p> <p>12 A. Yes.</p> <p>13 Q. So why does it say 1980 world</p> <p>14 champions?</p> <p>15 A. Because it's a made-up logo about</p> <p>16 the 1980 world champions. Could I make up a</p> <p>17 logo that says 1916 world champions and use a</p> <p>18 different -- something in the middle.</p> <p>19 Q. I'm not arguing. I'm just asking</p> <p>20 -- I'm just giving you every opportunity to</p> <p>21 explain yourself. So you're saying that this</p> <p>22 was made in 2007 and it is a logo that put</p> <p>23 1980 world champions on it. Is that what</p> <p>24 you're saying?</p> <p>25</p>	<p style="text-align: right;">Page 99</p> <p>1 A. I am saying that, yes, around</p> <p>2 2007. I'm not scat sure if it was 2007, 2008.</p> <p>3 But that's when it appeared.</p> <p>4 Q. Was a similar logo created closer</p> <p>5 to 1980?</p> <p>6 A. I don't know that.</p> <p>7 Q. Okay. You say that there's some</p> <p>8 date stamp numbers and documents. Do you see</p> <p>9 that those?</p> <p>10 A. Yes.</p> <p>11 Q. And do you know who those are?</p> <p>12 A. Not necessarily.</p> <p>13 Q. Okay. Have you reviewed any of</p> <p>14 these documents that are reflected in this</p> <p>15 column under Bates stamp numbers?</p> <p>16 A. No.</p> <p>17 Q. In the final column under the</p> <p>18 annular designer licensee it says</p> <p>19 Harrison/Erickson. Were Harrison/Erickson the</p> <p>20 authors?</p> <p>21 MR. MARANDOLA: Objection. Calls</p> <p>22 for a legal conclusion. Outside the</p> <p>23 scope of the 30(b)(6) topics. If you</p> <p>24 have personal knowledge you can answer.</p> <p>25</p>
<p style="text-align: right;">Page 100</p> <p>1 A. I do not know if they're authors</p> <p>2 of this.</p> <p>3 Q. Did they create the image in item</p> <p>4 1?</p> <p>5 A. At the behest in the Phillies in</p> <p>6 2007 and 2008, they -- we asked them to create</p> <p>7 the -- that inset design of the Phanatic</p> <p>8 holding the pennant out.</p> <p>9 Like I just described, the design</p> <p>10 itself was manipulated to turn it back to 1980</p> <p>11 coloring and logos.</p> <p>12 Q. Okay. And do you know whether or</p> <p>13 not that item 1 is similar to any prior</p> <p>14 creation by Harrison/Erickson, that occurred</p> <p>15 prior to October 31st, 1984?</p> <p>16 MR. MARANDOLA: Objection, vague.</p> <p>17 And objection, outside the scope of the</p> <p>18 30(b)(6) topics. You can answer in your</p> <p>19 personal capacity.</p> <p>20 A. I believe there's some sketches of</p> <p>21 the Phanatic's head with him holding the</p> <p>22 pennant in his cup.</p> <p>23 Q. And that was, in fact, what we</p> <p>24 looked at earlier, do you know?</p> <p>25</p>	<p style="text-align: right;">Page 101</p> <p>1 A. I believe it's one of the ones we</p> <p>2 saw earlier.</p> <p>3 Q. Okay. In the -- okay.</p> <p>4 We'll get to that again later.</p> <p>5 Is there a licensee referred to in</p> <p>6 this row relating to item number one?</p> <p>7 A. No.</p> <p>8 Q. Did The Phillies add any creative</p> <p>9 content to item number one?</p> <p>10 A. Yes. At the beginning the green</p> <p>11 color, the big snout, the baseball elements</p> <p>12 that are here. In this case the hat, the</p> <p>13 pennant. Those were our contributions.</p> <p>14 Q. And, again, when were those</p> <p>15 contributions made?</p> <p>16 A. 1978.</p> <p>17 Q. And the information that you have</p> <p>18 about that comes from where?</p> <p>19 A. Comes from working at the Phillies</p> <p>20 and knowing the history of the team and the</p> <p>21 mascot.</p> <p>22 Q. And how do you know that?</p> <p>23 Is it based on what people told</p> <p>24 you?</p> <p>25</p>

ROUGH DRAFT

<p style="text-align: right;">Page 102</p> <p>1</p> <p>2 MR. MARANDOLA: Objection, asked</p> <p>3 and answered. You can answer again.</p> <p>4 A. Yeah. What I've read, what I saw,</p> <p>5 what I viewed. What I read in articles. What</p> <p>6 I read in Phillies publications. What I read</p> <p>7 in Mr. Giles' testimony. It's not secret</p> <p>8 knowledge.</p> <p>9 Q. Okay. Anything else other than</p> <p>10 what you've testified about?</p> <p>11 A. No.</p> <p>12 Q. Okay. With respect to item number</p> <p>13 one, is this image a portrayal of the</p> <p>14 Phanatic?</p> <p>15 A. It's a 2-D interpretation of the</p> <p>16 Phanatic where a lot of creative license was</p> <p>17 taken to make it look good on a</p> <p>18 two-dimensional design.</p> <p>19 So it's not exactly like the</p> <p>20 Phanatic. It takes some liberties with the</p> <p>21 cartoon-ish hat. It takes some liberties with</p> <p>22 the eyebrows that are one -- the one distinct</p> <p>23 piece versus the two pieces that appear on the</p> <p>24 costume. The eyeballs are pretty different</p> <p>25 because they're flat ovals here, whereas, on</p>	<p style="text-align: right;">Page 103</p> <p>1</p> <p>2 the costume they're literally egg-shaped 3-D</p> <p>3 eyeballs. So.</p> <p>4 Q. I understand. You don't need to</p> <p>5 repeat that testimony. We don't need to go</p> <p>6 down that road again?</p> <p>7 MR. MARANDOLA: Don't interrupt</p> <p>8 the witness, Paul.</p> <p>9 Q. Unless you want to. You've said</p> <p>10 the same mantra. I heard it ten times</p> <p>11 already. You could say answer A and I'll</p> <p>12 understand what you mean.</p> <p>13 MR. MARANDOLA: Paul, just let the</p> <p>14 witness answer the question.</p> <p>15 Were you finished, Scott --</p> <p>16 MR. MONTCLARE: I'm trying --</p> <p>17 okay.</p> <p>18 THE WITNESS: I'm finished.</p> <p>19 BY MR. MONTCLARE:</p> <p>20 Q. This image is supposed to portray</p> <p>21 the Phanatic which is the mascot in this</p> <p>22 period of time in 2007; is that correct?</p> <p>23 A. No.</p> <p>24 Q. No? This is a different character</p> <p>25 altogether? It doesn't involve the mascot?</p>
<p style="text-align: right;">Page 104</p> <p>1</p> <p>2 A. Well, it's intending to portray</p> <p>3 the Phanatic as he looked in 1980.</p> <p>4 Q. Okay. Thank you.</p> <p>5 All right. So let's go to the</p> <p>6 next one on the list. Number 40.</p> <p>7 Are you with me?</p> <p>8 A. I'm trying to find number 40.</p> <p>9 MR. MARANDOLA: Page 40 or number</p> <p>10 40?</p> <p>11 MR. MONTCLARE: No. Number 40.</p> <p>12 Page 17.</p> <p>13 A. Okay. Thank you.</p> <p>14 Q. Who created this image?</p> <p>15 A. I believe Harrison/Erickson was</p> <p>16 commissioned to create that from -- by The</p> <p>17 Phillies to help with some appearances. So</p> <p>18 it's got the same creative elements that The</p> <p>19 Phillies portrayed -- or that The Phillies</p> <p>20 initially asked them to do instead of the egg.</p> <p>21 So it's big, it's fat, it's got the long nose.</p> <p>22 It's green. And, again, it's The Phillies</p> <p>23 baseball logo here, the baseball hat, the</p> <p>24 baseball jersey, the baseball socks. And The</p> <p>25 Phillies asked them to do that and they did a</p>	<p style="text-align: right;">Page 105</p> <p>1</p> <p>2 creative job of turning from it 3-D to 2-D by</p> <p>3 adding some elements and it looks like it's --</p> <p>4 I believe it's something that we've used for</p> <p>5 coming events or for Phanatic appearances.</p> <p>6 But that was before -- I wasn't around for</p> <p>7 this.</p> <p>8 Q. Okay. So this is portrayal of the</p> <p>9 Phanatic as it was created in 1978?</p> <p>10 A. Well, there's some elements of it,</p> <p>11 yes. But it was updated.</p> <p>12 Q. And what were the updated</p> <p>13 elements?</p> <p>14 A. The updates are The Phillies logos</p> <p>15 and coloring. The hat is red with a blue</p> <p>16 button as opposed to burgundy with a white</p> <p>17 button. The jersey does not have the thick</p> <p>18 piping on the shoulder and down the sleeves as</p> <p>19 it did in the 1980s. You can't see The</p> <p>20 Phillies script on the front but that would be</p> <p>21 different than it was -- than it was in the</p> <p>22 '80s. This one looks a little different. It</p> <p>23 looks like the shoes are a different color</p> <p>24 than the body was probably not correct but</p> <p>25 sometimes changes were made for different</p>